

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**JEFF BROWN, Individually and as
Co-Special Administrators of the
Estate of KB, Deceased, and SHERRI
GOTHIER, Individually and as Co-
Special Administrators of the Estate of
KB, Deceased,**

Plaintiffs,

V.

**PROVIDENCE MEDICAL CENTER,
Wayne, Nebraska, BENJAMIN J.
MARTIN, M.D., and MERCY
MEDICAL SERVICES, Inc., Sioux
City, Iowa,**

Defendants.

8:10CV230

ORDER

Pursuant to the Qualified Protective Order ([filing 115](#)) entered by the court, the parties are required to give one another reasonable, advance notice before having ex parte communications with KB's health care providers. Plaintiff's counsel has advised the court that the parties are unable to agree as to what constitutes "reasonable, advance notice" and, consequently, has requested a telephonic hearing with the court. Rather than hold a hearing, the court will simply provide the parties with more direction as to how reasonable, advance notice, as required by the Qualified Protective Order, should be given.

Accordingly,

IT IS ORDERED:

1. Counsel's oral request for a telephonic hearing is denied.
2. Should the parties wish to have ex parte communications with KB's health

care providers, notice shall be given as follows:

- a. Prior to any ex parte communication, the party desiring such communication must give the other party three (3) business days notice. The notice must be in writing and must specify the health care provider(s) that will be contacted.
- b. Notice shall be given seriatim. Each notice may only specify seven (7) health care providers that will be contacted. No more than one, written notice may be given per day.
- c. Prior to conducting an ex parte interview of a health care provider (in person or otherwise), the party requesting the ex parte communication must send the provider, via postal mail, email or facsimile, a copy of the Qualified Protective Order. A copy of the Order may not be sent to the provider, however, until the expiration of the three-day advance notice period as set forth above.

DATED June 13, 2011.

BY THE COURT:

**S/ F.A. Gossett
United States Magistrate Judge**